



City of North Port

ORDINANCE NO. 2017-_____

AN ORDINANCE OF THE CITY OF NORTH PORT, FLORIDA, REPEALING CITY OF NORTH PORT CODE CHAPTER 54 – SOLICITATION IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 54 – SOLICITATION; PROVIDING FOR DEFINITIONS; PROVIDING FOR NOTICE TO REGULATE SOLICITORS AND PEDDLERS AT INDIVIDUAL RESIDENCES AND NEIGHBORHOODS; PROVIDING FOR FINDINGS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR A PENALTY; PROVIDING A SAVINGS CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an important part of the freedom enjoyed by all citizens and residents of the United States is the right to speak freely, to express ideas, and to engage others in debate without undue government interference; and

WHEREAS, the United States Supreme Court has recognized the need to balance the right to free speech with the right of all citizens and residents to the privacy in one's home, including the right to be free from unwanted and unwelcome intrusions; and

WHEREAS, the City Commission has received complaints from its citizens concerning unwanted interruptions of their privacy by solicitors, canvassers, and door-to-door salespersons; and

WHEREAS, protecting private residents of the City from unwanted annoyance of itinerant merchants, peddlers and solicitors protects the peace in the community; and

WHEREAS, the City does not have any desire to interfere with free speech, open dialogue and exchange of opinions; and

WHEREAS, the City does desire to ensure the protection of the health, safety and welfare of its citizens; and

WHEREAS, Florida Statute Sections 501.021 – 501.055 impose certain requirements for home solicitation sales, including obtaining a home solicitation sale permit from the clerk for the circuit court for the county; and

WHEREAS, Florida Statute Section 501.022(8) requires every permit holder to carry the home solicitation sale permit at all times while engaged in home solicitation sales and to display the same to all prospective buyers before initiating the solicitation of a sale, lease, or rental; and

WHEREAS, any person who conducts or attempts to conduct a home solicitation sale without first obtaining and having in her or his possession a valid, current permit, or who uses or attempt to use an expired, suspended, or revoked home solicitation sale permit in a home solicitation sale is guilty of a misdemeanor of the first degree and upon second or subsequent convictions, the offender is guilty of a felony of the third degree; and

WHEREAS, existing Florida Statutes provide criminal regulations that address certain behaviors, including but not limited to Section 316.130 (pedestrians; traffic regulations); Section 784.011 (assault); Section 856.021 (loitering or prowling); Sections 810.08 and 810.09 (trespass); and Section 877.03 (breach of the peace; disorderly conduct).

WHEREAS, after consideration, the City Commission has determined that it is in the best interest of the City and its citizens to repeal the current Chapter 54 and replace with a new Chapter 54 to provide for new and updated regulations and guidelines for peddlers and solicitors within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF NORTH PORT, FLORIDA:

SECTION 1. – FINDINGS

The City Commission hereby makes the following findings:

1.01 The recitals outlined above are incorporated by reference as findings of fact as if expressly set forth herein.

1.02 The City of North Port has broad home rule powers granted by the Florida Constitution to enact ordinances which are not inconsistent with general or special law for the purposes of protecting the public health, safety, and welfare of its citizens.

SECTION 2. – REPEAL AND ADOPTION

The North Port City Commission hereby repeals City of North Port Code Chapter 54 – Solicitation in its entirety and hereby approves and adopts the new City of North Port Code Chapter 54 – Solicitation, comprising Sections 54-1 through 54-5, enacted to read as follows:

“CHAPTER 54 – SOLICITATION

Sec. 54-1. - Definitions.

The following words for purposes of this chapter are defined as follows:

- (1) *Notice.* A notice indicating in any manner that the occupants of such premises do not desire to be disturbed, as described in Section 54-2.
- (3) *Peddler.* Any person selling or attempting to sell merchandise, services, or both while carrying or transporting such merchandise or the materials necessary to provide services.
- (4) *Residence.* Every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.
- (5) *Solicitor.* Any person engaging in one or more of the following activities:
 - (a) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, or services of any kind, character or description, for any kind of consideration; or
 - (b) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or publication; or
 - (c) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers, or any other type or kind of publication; or
 - (d) Seeking to obtain gifts or contributions of money, clothing, or any other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation, or project or for any other purpose.

Sec. 54-2. - Notice regulating residential soliciting and peddling.

Every person desiring to secure the protection provided by this Chapter shall substantially comply with the following:

- (1) Notice of the refusal of invitation to solicitors and peddlers shall be given by means of a clearly legible card or sign not less than three (3) inches by four (4) inches in size, bearing the words “No Solicitors,” “No Peddlers,” “No Trespassing,” “No Advertisements,” or any similar notice indicating in any manner that the occupants of such premises do not desire to be disturbed.
- (2) For an individual residence, such notice shall be exhibited in a conspicuous place upon or near the main entrance door to the residence. Any such card or sign so exhibited shall constitute sufficient notice to any solicitor or peddler of the determination by the occupant of the residence that any peddling or soliciting by any person is prohibited at such residence.
- (2) For a neighborhood, such notice shall be exhibited in a conspicuous place at the main entrance(s) of the neighborhood, in accordance with all applicable City regulations. Any such card or sign so exhibited shall constitute sufficient notice to any solicitor or peddler of the determination by the neighborhood that any peddling or soliciting by any person is prohibited at each of the residences of the neighborhood.

To effectuate the enforceability of this Section, a neighborhood shall provide the Property Standards Division Manager a copy of a petition executed by the property owners of at least sixty (60) percent of the total lots in a particular neighborhood that such owners wish to notify any peddler and/or solicitor of such prohibition. The petition shall designate the boundaries of the particular neighborhood subject to the

prohibition and identify to which property within such boundary each signatory to the petition belongs.

- (3) The provisions of this Section shall not apply to constitutionally protected political speech.

Sec. 54-3. - Duty of solicitors and peddlers.

- (a) It shall be the duty of every solicitor and peddler upon going onto any premises in the City upon which a residence is located, to first examine the notice on the residence or at the neighborhood’s entrance, if any is attached, and be governed by the statement contained on any notice.
- (b) If the notice substantially complies with Section 54-2, then the solicitor or peddler shall immediately and peacefully depart from the premises or neighborhood. If a neighborhood has placed a notice, the solicitor or peddler shall be responsible for contacting the City to verify the geographic boundaries to which such restriction applies.
- (c) Any solicitor or peddler who has gained entrance to any premises or residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

Sec. 54-4. - Uninvited soliciting and peddling prohibited.

It is hereby declared to be unlawful for any person to go upon any premises and ring the doorbell, knock upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant and engage in, or attempt to engage in, soliciting or peddling, in defiance of the notice.

Sec. 54-5. – Penalties.

- (a) Violation of this Article shall be punishable as follows:

First offense:	Written warning
Second offense:	Fine of \$100.00
Third offense:	Fine of \$250.00
Fourth or subsequent offense:	Fine of \$500.00

- (b) Payment of the penalty shall be made at the police department within ten days of issuance of the violation ticket. In the event that such payment is not made within the ten-day period, a citation shall be issued for a violation of this Article which shall be deemed as a misdemeanor in the second degree punishable pursuant to provisions of F.S. §§ 775.081, 775.082 and 775.083.
- (c) Payment shall be made by cash, cashier’s check or money order. Cashier’s check and/or money order shall be made payable to the city. Personal checks shall not be accepted.”

SECTION 3. – SEVERABILITY.

If any section, subsection or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provisions shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. – CONFLICTS.

In the event of any conflicts between the provisions of this Ordinance and any other Ordinance, the provisions of this Ordinance shall prevail to the extent of such conflict.

SECTION 5. – SAVINGS CLAUSE.

That the Code of the City of North Port, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 6. – EFFECTIVE DATE.

This Ordinance shall take effect immediately upon adoption by the City Commission of the City of North Port, Florida.

READ BY TITLE ONLY in public session this _____ day of _____, 2017.

PASSED and ADOPTED on second and final reading in public session this _____ day of _____, 2017.

CITY OF NORTH PORT, FLORIDA

LINDA M. YATES
MAYOR

ATTEST:

PATSY ADKINS, MMC
CITY CLERK

APPROVED AS TO FORM AND CORRECTNESS:

MARK MORIARTY
CITY ATTORNEY

DRAFT